

The University of Southern Mississippi

## The Aquila Digital Community

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University Libraries Workshops and  
Presentations

University Libraries

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10-2021

### Always Open: Creative Approaches to Providing Materials in Virtual Environments

Josh Cromwell

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# ALWAYS OPEN

CREATIVE APPROACHES TO PROVIDING MATERIALS  
IN VIRTUAL ENVIRONMENTS

MISSISSIPPI LIBRARY ASSOCIATION 2021 CONFERENCE

OCTOBER 13, 2021

# ROAD MAP

- INTRODUCTION
- PANDEMIC CHALLENGES
- OPEN ACCESS
- CREATIVE COMMONS
- RIGHTS STATEMENTS
- FAIR USE
- CONTROLLED DIGITAL LENDING (CDL)
- QUESTIONS

# INTRODUCTION



Josh Cromwell  
Scholarly Communications Manager

# PANDEMIC CHALLENGES

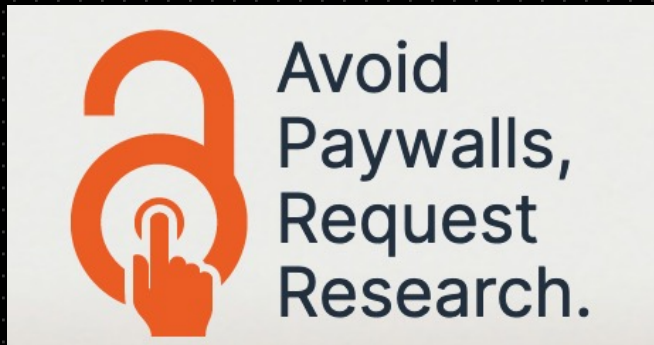


# OPEN ACCESS



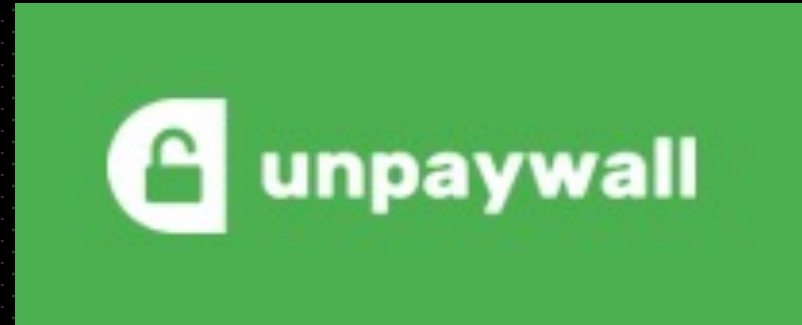
- Makes research and scholarly articles freely available online – no paywalls
- Often includes reuse rights, but free to read at a minimum
- Some journals make articles available OA, other articles are available through repositories

# OPEN ACCESS



Open Access Button

- Searches the internet for an open version of an article
- Includes browser plugin
- Option to email author for a copy



Unpaywall

- Looks for OA version of articles based on DOI search
- Includes browser plugin
- Can integrate into library catalog

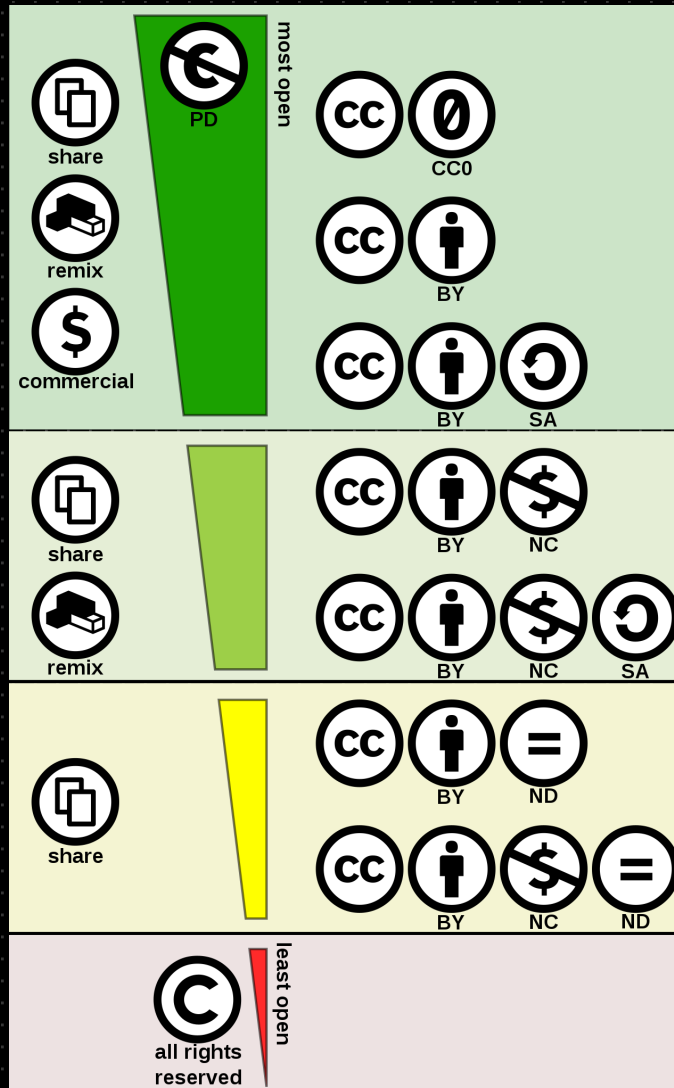
# CREATIVE COMMONS

- Open license that clearly explains how a work can be reused
- All licenses require attribution for reuse
- May include restrictions on commercial use or creating derivative works
- Can still negotiate additional rights w/copyright holder





# CREATIVE COMMONS



## Licenses:

- CC0: Public Domain
- CC-BY: Attribution Required
- CC-BY-SA: Attribution Required, Must Use Same License
- CC-BY-NC: Attribution Required, Non-Commercial Use Only
- CC-BY-ND: Attribution Required, No Derivatives

Other licenses consist of combining the individual licenses (e.g. CC-BY-NC-ND: Attribution Required, Non-Commercial Use Only, No Derivatives)

# RIGHTS STATEMENTS

- Used to indicate both copyright and reuse rights of items held by cultural heritage institutions
- Three categories: in copyright, not in copyright, copyright status unclear
- Helpful for patrons to understand how items can/cannot be reused and/or copyright restrictions

**RIGHTS**  **STATEMENTS**

# RIGHTS STATEMENTS



## In Copyright

- EU Orphan Work
- Educational Use Permitted
- Non-Commercial Use Permitted
- Rights-Holder(s) Unlocatable or Unidentifiable



## No Copyright

- Contractual Restrictions
- Non-Commercial Use Only
- Other Known Legal Restrictions
- No Copyright – United States



## Copyright Unclear

- Copyright Not Evaluated
- Copyright Undetermined
- No Known Copyright



## FAIR USE

- Provision in copyright law that allows for the reuse of materials that are still under copyright under certain conditions
- No hard and fast rule on what constitutes Fair Use; based on four-factor analysis but courts make the ultimate determination
- Heavily weighted toward "transformative use" as determining component

# FAIR USE

## Four Factors of Fair Use Analysis

1. The Purpose and Character of the Use
2. The Nature of the Copyrighted Work
3. The Amount or Substantiality of the Portion Used
4. The Effect on the Use of the Potential Market for or Value of the Work

\*Law calls for a balance of all four factors

# CONTROLLED DIGITAL LENDING (CDL)



"Internet Archive Book Scanner" by Dvortygirl, available via CC-BY-SA 4.0 license.

- Method to make physical items available digitally on a limited basis
- A digital copy of a physical item can be loaned temporarily; the physical copy must be made unavailable during the digital checkout period
- Can only loan as many digital copies simultaneously as there are physical copies in the collection

# CONTROLLED DIGITAL LENDING (CDL)

## FAQs:

1. What is the legal basis for CDL?
  - Based on the concept of “exhaustion” and Fair Use (though some challenge this interpretation - watch the courts!)
2. Why use CDL?
  - Ideal for circumstances like the pandemic when access to physical materials may be limited
3. How do libraries prevent the digital copies from being used inappropriately?
  - Use some form of DRM to prevent any attempts to redistribute or copy the file
4. Can CDL be used at any time or just during an emergency?
  - Any time! It is based on principles in Copyright Law that are always in effect



# ADDITIONAL INFORMATION

## Open Access

- SPARC Overview of Open Access
  - <https://sparcopen.org/open-access/>
- Directory of Open Access Journals
  - <https://doaj.org>

## Creative Commons

- Creative Commons Website
  - <https://creativecommons.org>
- Finding Creative Commons Images Using Google – University of Melbourne
  - <https://copyright.unimelb.edu.au/guides/finding-creative-commons-images-using-google>

## Rights Statements

- Rights Statements Website
  - <https://rightsstatements.org>

- Digital Collections at Southern Miss
  - <https://www.digitalcollections.usm.edu/>

## Fair Use

- US Copyright Office Fair Use Index
  - <https://www.copyright.gov/fair-use/>
- Fair Use Checklist – Columbia University
  - <https://copyright.columbia.edu/basics/fair-use/fair-use-checklist.html>

## Controlled Digital Lending

- Controlled Digital Lending by Libraries
  - <https://controlddigitallending.org/>
- Hachette v. Internet Archive
  - <https://www.eff.org/cases/hachette-v-internet-archive>



# QUESTIONS?

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